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PAGE PTO/SB/21-04-04

TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>		Application Number	09/808,706
		Filing Date	March 14, 2001
		First Named Inventor	McMillan
		Art Unit	1634
		Examiner Name	Switzer, J. C.
Total Number of Pages in This Submission	5	Attorney Docket Number	020048-003320US

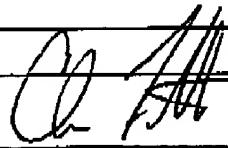
ENCLOSURES (Check all that apply)				
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to Technology Center (TC)		
<input type="checkbox"/> <input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences		
<input type="checkbox"/> Communication (2 pages)	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)		
<input type="checkbox"/> <input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information		
<input type="checkbox"/> <input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter		
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input type="checkbox"/> Other Enclosure(s) (please identify below):		
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	<input type="checkbox"/> Application for Patent Term Adjustment Under 37 C.F.R. § 1.705(b)		
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund			
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s)			
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application				
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53				
<table border="1"> <tr> <td>Remarks</td> <td>The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.</td> </tr> </table>			Remarks	The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.
Remarks	The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.			

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Townsend and Townsend and Crew LLP Chun-Pok Leung	
Signature		
Date	Reg. No. 41,405 August 31, 2005	

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office, Fax No. (703) 872-9306 on August 31, 2005.

Typed or printed name	Christopher R. Fitting	
Signature		Date
		August 31, 2005

60576419 v1

Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEET TRANSMITTAL For FY 2005

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 200.00)

Complete If Known	
Application Number	09/808,706
Filing Date	March 14, 2001
First Named Inventor	McMillan
Examiner Name	Switzer, J. C.
Art Unit	1634
Attorney Docket No.	020048-003320US

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US PATENT & TRADEMARK
OFFICE

METHOD OF PAYMENT (check all that apply)

Check Credit Card Money Order None Other (please identify): _____
 Deposit Account Deposit Account Number: 20-1430 Deposit Account Name: Townsend and Townsend and Crew LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

Charge fee(s) indicated below Charge fee(s) indicated below, except for the filing fee
 Charge any additional fee(s) or underpayments of fee(s) Credit any overpayments
 under 37 CFR 1.16 and 1.17

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Small Entity	Fee (\$)	Small Entity	Fee (\$)	Small Entity	Fee (\$)	
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

2. EXCESS CLAIM FEES

Fee Description

Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent

Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent

Multiple dependent claims

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims	Fee (\$)	Fee Paid (\$)
-20 or HP =	x	\$	= \$0	_____	_____	_____

HP = highest number of total claims paid for, if greater than 20

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
-3 or HP =	x	\$	= \$0

HP = highest number of independent claims paid for, if greater than 3

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

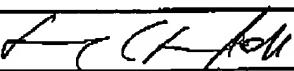
Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	/ 50 =	(round up to a whole number) x	=	Fee Paid (\$)

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other: Application for Patent Term Adjustment Under 37 CFR § 1.705(b)

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SUBMITTED BY		Registration No. (Attorney/Agent)	Telephone
Signature		41,405	(650) 326-2400
Name (Print/Type)	Chun-Pak Leung		Date August 31, 2005

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09/12/2005 DALLEN 0000001 201430 09800706

01 EC:1463 200.00 D0
PAGE 26 * RCVD AT 8/31/2005 7:31:43 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/0 * DNIS:8729306 * CSD:650 326 2422 * DURATION (mm:ss):01:18

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TOWNSEND and TOWNSEND and CREW LLP

PATENT
Docket No.: 020048-003320US

US PATENT & TRADEMARK
OFFICE

By: Christopher R. Fitting

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

McMillan et al.

Application No.: 09/808,706

Filed: March 14, 2001

For: METHOD FOR QUANTITATIVE
ANALYSIS OF A NUCLEIC ACID
AMPLIFICATION REACTION

Examiner: Juliet Caroline Switzer

Art Unit: 1634

APPLICATION FOR PATENT TERM

ADJUSTMENT UNDER

37 C.F.R. § 1.705(b)

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants are in receipt of the *Notice of Allowance and Determination of Patent Term Adjustment under 35 U.S.C. 154(b)* mailed January 25, 2005. The Patent Office has determined that the Patent Term Adjustment to day is 0 days. In accordance with 37 C.F.R. § 1.705(b), the Applicants respectfully request reconsideration of the patent term adjustment.

Statement Of Facts - 37 C.F.R. § 1.705(b)(2)

(i) **Correct Patent Term Adjustment and Basis Under 37 C.F.R. §1.703**

The Applicants respectfully submit that the correct patent term adjustment is 354 days. This determination is due, in part, to the mailing of the second Office Action later than

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four months after the filing of the response to the first office action (Restriction Requirement) per 37 C.F.R. §1.703(a)(3).

(ii) Relevant Dates for which an Adjustment is Sought under 37 C.F.R. §1.703(a)(3).

Date of Response to Restriction Requirement	June 7, 2002
Four Months from Response	October 7, 2002
Date of Mailing of Second Office Action	February 13, 2003
Days in excess of Four Months	129
Date of filing of Application	March 14, 2001
Date of Issuance of Patent	June 28, 2005
Days in excess of Three Years	471
Total USPTO delays	600

Applicant delays:

First Office Action Mailed	February 13, 2003
Response to First Office Action Mailed	August 15, 2003
Days in excess of Three Months	94
Second Office Action Mailed	November 19, 2003
Response to Second Office Action Mailed	May 21, 2004
Days in excess of Three Months	92
Final Office Action Mailed	July 23, 2004
Response to Final Office Action Mailed	December 22, 2004
Days in excess of Three Months	60
Total Applicant delays	246

The USPTO delays (600) minus the Applicant delays (246) equals the correct patent term adjustment of 354 days.

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CONCLUSION

The Applicants respectfully requests reconsideration of the patent term adjustment of 0 days indicated on the *Determination of Patent Term Adjustment under 35 U.S.C. 1.54(b)* to 354 days, as discussed above.

The Commissioner is hereby authorized to charge the fee of \$200.00 for filing an Application for Patent Term Adjustment as set forth in § 1.18(e), and any other fees which may be required, or credit any overpayment, to Deposit Account No. 20-1430.

Respectfully submitted,



Chun-Pok Leung
Reg. No. 41,405

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